



WESTERN STATES WATER COUNCIL

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Web Page: www.westgov.org/wswc

April 5, 2010

Council on Environmental Quality
Attn: Terry Brayman
722 Jackson Place, NW
Washington, D.C. 20503

Dear Mr. Brayman:

I am writing on behalf of the Western States Water Council, which is affiliated with the Western Governors' Association (WGA), and advises the governors of seventeen states on water policy issues. We appreciate the opportunity to comment on the Council on Environmental Quality's new draft Principles and Guidelines (P&Gs). We recognize and commend you for the effort to ensure that development of federal water resources projects are based on sound science and economics, as well as other important considerations.

In 2008, the Council and WGA released a report, *Water Needs and Strategies for a Sustainable Future: Next Steps*, which calls for "...changing the way water planning is conducted by encouraging more comprehensive plans developed under state leadership with federal assistance; and reducing inefficiencies caused by the present mode of project-specific responses to competing demands, contradictory actions by multiple state, local and federal water agencies, and hastily conceived reactions to the latest real or perceived crisis."

The 2008 Water Report also declared, "Federal agencies should use state water plans: (a) to help determine national water policy and priorities that align federal agency support to states; and (b) to inform decision making regarding regional water issues." It should be recognized that States (and Tribes) are not merely stakeholders, but governments.

We strongly endorse the mandate on page 21 of the draft P&Gs that: "Alternatives shall be evaluated for their degree of integration with and contribution to establish Federal, State, Tribal, and local watershed plans." Similarly, the directive on page 17, which says: "Existing water and related resources plans developed by others, such as State water resources plans and watershed plans, shall be included as alternatives when reasonably consistent with the study objectives." We also agree that to the extent practicable, elements of alternatives that "...could be implemented collaboratively by other Federal agencies, State, local, and Tribal governments, and/or nongovernmental entities...shall identify each element, the implementing entity, and its respective role." On page 13, the draft says Federal agencies shall collaborate fully with State entities, including the "development and implementation of complementary projects and programs...."

We appreciate these explicit references that place appropriate emphasis on the need for consistency with State water plans, policies and priorities. We would add that there needs to be recognition of the States' role in allocating and administering rights to the use of water, which in the West are property rights. States, state water plans and planning processes, including public participation processes, should be relied on in the transparent federal planning process discussed on page 12. State water plans should be referenced on page 14, which says that efforts preceding initiation of studies may include review of prior studies.

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We whole-heartedly agree that after initiating studies, pertinent preliminary information should be shared with State agencies as part of the scoping process. Also, State water and watershed planning boundaries should be considered in defining the study area. On page 15, the determination of existing conditions, including "inventories and analyses of the quantity and quality of water and related resources" should carefully take into account existing information from State water plans. Further, the identification of specific problems and opportunities should rely heavily on existing State water plans and planning processes as appropriate, including the definition of purposes and need. Study objectives should give great weight to State priorities, as should the formulation of alternative solutions, projects or plans.

Ideally, as the draft P&Gs note, "Planning is an orderly and systematic process for solving problems and reaching a rational, unbiased, and fully-informed recommendation for decision makers." Unfortunately, as the draft admits, often decisions have to be made with incomplete information. The P&Gs recognize the need to apply professional judgment where data are lacking, and should rely on States' experience and expertise for assistance.

As noted in our earlier comments of July 17, 2009, we concur that National Economic Development (NED) should not be the only national planning objective, but other benefits should be "recognized and taken into account in project formulation and in determination of the justification to proceed with authorization and implementation." Planning for water projects based strictly on a NED objective "...would not be compatible with existing state water plans and planning efforts in many of the states. If the states are asked to cost share in a project, then the plan must reflect the states' objectives."

It should be noted that cost-sharing requirements are one of the biggest changes in Federal water resources planning and implementation, since the 1983 P&Gs, and have risen from an initial proposal for a non-Federal share of only 5% of projected project costs, to a general minimum cost-sharing requirement of 35% under the 1986 Water Resources Development Act, and much more under some Federal programs. Cost sharing has become accepted evidence of a State's or other project sponsor's willingness-to-pay, as compared to other economic valuation theories and strategies for prioritizing Federal projects and programs.

Lastly, we would again reiterate that in developing new principles and flexible guidelines, CEQ should carefully consider the Governors' 2008 report, which declares in part: "States have the pivotal role in water planning, as well as allocating and protecting the resource.... To support the state leadership role, the federal government should help by providing...technical and appropriate financial assistance." Further, it is "...paramount to move state and local government participation back into the process of federal decision-making.... Developing optimal solutions...will require an integrated approach and greater partnerships among state, local and federal agencies.... Federal agencies should use state water plans: (a) to help determine national water policy and priorities that best align federal agency support to states; and (b) to inform decision making regarding regional water issues."

Thank you again for the opportunity to comment.

Sincerely,



Garland Erbele
Chairman
Western States Water Council